

Some Common Questions about Reporting Certified Individuals for Failure to Adhere to A Company's Drug and Alcohol-Free Policy

Do I need to report pre-employment drug testing results to the Office of Mine safety and Licensing?

No, as a licensee, you are required to report those certified individuals who have been discharged for violating your company's drug and alcohol workplace policy. Since the person is not yet your employee they are not subject to reporting under this statute.

If I have a certified employee who refuses to take a drug test, do I have to report them?

Yes, the law requires that you report anyone who refuses to submit to drug testing per your company's drug and alcohol policy.

We have a second chance policy at our mine, if someone fails, we let them continue working, but if they fail another test they are fired. How does the reporting requirement apply in this situation?

If a certified individual fails a drug test, the person must enter into an Employee Assistance Program, and must complete that program. If that person does not enter into an EAP or does not complete the EAP, then that certified individual must be reported.

What is an Employee Assistance Program?

Employee Assistance Program means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment and assistance with regard to employee drug or alcohol abuse; and follow-up services for employees who participate in a drug or alcohol rehabilitation program or require monitoring after returning to work. Third parties under contract to your company normally provide these services.

If my employee tests positive, but provides a valid doctor's prescription for the medication, do I have to report that employee to OSML?

Generally an MRO will not report a test result as positive if the individual can provide a valid prescription. A person does not have to be reported if they have a valid prescription for the medication, and the test indicates that the level in their system is consistent with the prescribed dosage. Companies should be aware that some medications, even under proper use would limit or eliminate an employee's ability to operate heavy equipment.

If you have any questions regarding reporting certified individuals for failure to adhere to a company's drug and alcohol-free policy please contact holly.mccoy@ky.gov.